

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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JAMES DRISCOLL SMITH,

Case No. 3:23-CV-00225-RCJ-CLB

Plaintiff,

**ORDER**

v.

BRIAN OLVERA, *et. al.*,

Defendants.

On May 30, 2023, Plaintiff James Driscoll Smith ("Smith") initiated this action by filing an application to proceed *in forma pauperis* and along with a *pro se* civil rights complaint, (ECF Nos. 1, 1-1). On June 15, 2023, the Court issued a screening order pursuant to 28 U.S.C. § 1915A, granting Smith an opportunity to either amend his complaint or proceed on the complaint as stated in Order (ECF No. 4). Smith did not file an amended complaint, but instead filed a letter with the Court regarding summons, (ECF No. 6-1). Based on the letter requesting issuance of summons, the Court believes Smith intends to proceed with his complaint as permitted by the Court's screening order.

Accordingly, **IT IS HEREBY ORDERED** that Smith will **PROCEED** on the following two claims: (1) Fourth Amendment excessive force claim against Elko County Police Officer Brian Olvera; and (2) Fourth Amendment failure to intervene claim against Defendants Elko County Police Officers Joshua Taylor and Jacob Ballensky.

**IT IS FURTHER ORDERED** that the Clerk shall **ISSUE** a summons for the above-named defendants and deliver the same to the U.S. Marshal together with a copy of the complaint, (ECF No. 5), the screening order, (ECF No. 4), and this order for service on Defendants. The Clerk shall **SEND** to Smith three USM-285 forms. Smith shall have until **August 11, 2023**, to complete the USM-285 service forms and return to the U.S. Marshal, 400 S. Virginia Street, 2<sup>nd</sup> Floor, Reno, Nevada 89501. If Smith fails to follow this order, the above-named defendants will be dismissed for failure to complete service

1 of process pursuant to Fed. R. Civ. P. 4(m).

2 **IT IS FURTHER ORDERED** that henceforth, Smith shall serve upon Defendants  
3 or, if appearance has been entered by counsel, upon the attorney(s) a copy of every  
4 pleading, motion, or other document submitted for consideration by the Court. Smith shall  
5 include with the original paper to be filed with the Clerk of the Court a certificate stating  
6 the date that a true and correct copy of the document was mailed to the Defendants or  
7 counsel for defendants. The Court may disregard any paper received by a District Judge  
8 or a Magistrate Judge which has not been filed with the Clerk of the Court, and any paper  
9 received by a District Judge, Magistrate Judge, or Clerk of the Court which does not  
10 include a certificate of service.

11 **IT IS SO ORDERED.**

12 **DATED:** July 13, 2023.

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15 **UNITED STATES MAGISTRATE JUDGE**  
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